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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,876	01/17/2002	Hans-Hermann Wippersteg	3957/59156-103	7926

7590 06/13/2008  
HUSCH & EPPENBERGER, LLC  
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EXAMINER
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FISHER, MICHAEL J

ART UNIT	PAPER NUMBER
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3689

MAIL DATE	DELIVERY MODE
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06/13/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/051,876	<b>Applicant(s)</b> WIPPERSTEG, HANS-HERMANN	
	<b>Examiner</b> MICHAEL J. FISHER	<b>Art Unit</b> 3689	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 53-73 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 53-73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 53-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PAT 5,442,553 to Parillo (Parillo).

As to claim 53, Parillo discloses a system for repair management of vehicles (title), a network with interfaces for communication (fig 1), processors with memories (computers, abstract lines 1-5), recording in memories individual data uniquely associated with each machine (col 5, lines 14-16), a first data set comprising a plurality of base repair plans (abstract, lines 4-6), recording in memory a data set comprising changed in the machines (col 4, lines 57-64) and a repair plan is generated based on this information (col 5, lines 14-19).

Parillo does not, however, teach storing pre-service life design changes. Parillo, as discussed, does teach using the system for agricultural machinery or storing pre-service-life design changes.

Parillo does teach the system as storing changes to the machine (timing, as discussed above), and pre-service-life design changes are old and well known in the agricultural machinery arts, therefore, it would have been obvious to one of ordinary skill in the art to use the system as disclosed by Parillo for agricultural machinery as they are vehicles needing repair and diagnostics and further, adding any pre-service-life design changes so repairs could be effected properly.

As to claim 54, the data set includes modification history of the machine (col 4, lines 57-60).

As to claim 55, the display shows an approval field for response by the user (col 5, lines 40-42, the response would be the customer bringing the vehicle in for repairs).

As to claim 56, the system receives feedback data (col 1, lines 54-56).

As to claim 57, the feedback consists of maintenance status (col 4, lines 40-50).

As to claim 58, there is a variance database (col 5, lines 44-46).

As to claim 59, Parillo does not specifically mention part performance evaluations. However, Parillo does teach using the information to correct deficiencies (col 5, lines 44-45), therefore, it would have been obvious to one of ordinary skill in the art to modify the system as taught by Parillo by saving part performance evaluations as these would aid in correcting deficiencies in deficient parts.

As to claim 60, the remote computer is located in the vehicle (fig 2).

As to claim 61, Parillo does not specifically mention recording model or year, however, it would have been obvious to one of ordinary skill in the art to record model and year as Parillo discloses using the information to make subsequent model years less likely to break down (col 5, lines 44-46).

As to claim 62, the data consists of the machine's service history (col 4, lines 57-60).

As to claim 63, the system transmits diagnostic data (title).

As to claim 64, the data includes a list of parts (inherent in that repair information is sent to minimize repair time, col 5, lines 40-44).

As to claim 65, it is inherent that needed resources are provided else the repairs could not be performed.

As to claim 66, Parillo does not teach a verification element to ensure the repairs are performed. It would have been obvious to one of ordinary skill in the art to include a verification unit to ensure the work that's supposed to be done is done.

As to claim 67, Parillo does not specifically teach "producing documentation", however, it would have been obvious to one of ordinary skill in the art to have the unit produce documentation and send it to the central computer to ensure the work that's supposed to be done is done.

As to claim 68, the central computer produces an account for repair of the machine with the aid of the repair plan (claim 9).

As to claim 69, Parillo does not teach a remote, repair vehicle. It would have been obvious to one of ordinary skill in the art to use a remote repair vehicle in case the vehicle is in an area where the network isn't active.

As to claim 70, Parillo teaches a diagnostic system in each vehicle (22, fig 2) that sends data to the central computer (31).

As to claim 71, parts replaced according to the plan would have "reached the end of their useful service life".

As to claim 72, upgrade data is able to be updated (col 4, lines 57-60).

As to claim 73, Parillo teaches a repair plan. It is old and well known in the art for repair plans to list which parts have to be removed in order to get to the defective part (for instance, in replacing a heating core the instructions generally include telling how to get to the heater core by removing the console or dash board), therefore, it would have been obvious to one of ordinary skill in the art to include instructions for how to repair the vehicle (dismount parts in order to reach the defective part) as this would give the repairer a repair plan that tells how to repair the vehicle.

### ***Response to Arguments***

The examiner agrees that Parillo does not specifically teach using the system for agricultural machines, however, agricultural machines are vehicles and Parillo teaches using the system for vehicles. Further, intended use has little or no patentable weight and therefore, the system is what is being patented and not its use. The examiner

Art Unit: 3689

agrees that repairs of agricultural machines are important to be done in a timely basis, however, the same is true of any vehicle used for any business. If a salesman's car is broken down, he can't get to his clients, if a truck is broken down its goods cannot be delivered. Arguments in relation to steps in a repair plan have been addressed in the above rejection. Further, repair manuals such as Chilton's are famous in the repair arts and do include detailed repair plans (as discussed in the repair plan of a heater core "first, remove center console and dash"). The examiner agrees that previous repairs will affect the subsequent operation of the machine, as does Parillo (col 4, lines 51-56). The examiner disagrees that the computer effects the repairs, other systems besides timing are monitored and repaired ("body integrity", "tires", "lights", etc. fig 2).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Fisher whose telephone number is 571-272-6804. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3689

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael J Fisher/  
Patent Examiner, Art Unit 3689  
MF  
6/8/08